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 COUNTY OF SANTA BARBARA and
 SANTA BARBARA COUNTY SHERIFF'S DEPT.

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

JUNAN CHEN, KELLY YAO
 WANG, CHANGSHUANG WANG,
 JINSHUANG LIU, LICHU CHEN,
 and WENQUEI HONG,

Plaintiffs,

v.

COUNTY OF SANTA BARBARA;
 SANTA BARBARA COUNTY
 SHERIFF'S DEPARTMENT; CAPRI
 APARTMENTS AT ISLA VISTA;
 ASSET CAMPUS HOUSING; and
 DOES 1 through 200, Inclusive

Defendants.

Case No: 2:15-cv-01509-JFW (JEMx)

**DEFENDANTS COUNTY OF
 SANTA BARBARA AND SANTA
 BARBARA COUNTY SHERIFF'S
 DEPARTMENT'S ANSWER TO
 FIRST AMENDED COMPLAINT
 FOR DAMAGES; DEMAND FOR
 JURY TRIAL**

Judge: Hon. John F. Walter
 Courtroom: 16 – Spring Street

Defendants COUNTY OF SANTA BARBARA and SANTA BARBARA
 COUNTY SHERIFF'S DEPARTMENT (collectively "COUNTY"), by and
 through their counsel, in response to Plaintiffs' First Amended Complaint for
 Damages ("FAC") and pursuant to [Federal Rule of Civil Procedure 8\(b\)](#), admit
 or deny the allegations asserted against them by Plaintiffs and state their defense
 to each claim asserted against them as follows:

JURISDICTION AND VENUE

1
2 1. In response to the allegations of paragraph 1, COUNTY admits the
3 allegations therein.

4 2. In response to the allegations of paragraph 2, COUNTY admits that
5 venue is proper in the Central District of California pursuant to [28 U.S.C. §](#)
6 [1391\(b\)](#) because a substantial part of the events or omissions giving rise to
7 Plaintiffs' claims occurred in this judicial district. Except as so admitted,
8 COUNTY denies each and every allegation contained in the said paragraph.

9 3. In response to the allegations of paragraph 3, COUNTY is without
10 sufficient knowledge or information to form a belief as to the truth of the
11 allegations contained in said paragraph, and on that basis denies each and every
12 allegation contained therein.

13 4. In response to the allegations of paragraph 4, COUNTY is without
14 sufficient knowledge or information to form a belief as to the truth of the
15 allegations contained in said paragraph, and on that basis denies each and every
16 allegation contained therein.

17 5. In response to the allegations of paragraph 5, COUNTY is without
18 sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and on that basis denies each and every
20 allegation contained therein.

21 6. In response to the allegations of paragraph 6, COUNTY is without
22 sufficient knowledge or information to form a belief as to the truth of the
23 allegations contained in said paragraph, and on that basis denies each and every
24 allegation contained therein.

25 7. In response to the allegations of paragraph 7, COUNTY is without
26 sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained in said paragraph, and on that basis denies each and every
28 allegation contained therein.

1 8. In response to the allegations of paragraph 8, COUNTY is without
2 sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and on that basis denies each and every
4 allegation contained therein.

5 9. In response to the allegations of paragraph 9, COUNTY admits that it
6 is a political subdivision of the State created under the laws of the State of
7 California; that its principal place of business is located in the County of Santa
8 Barbara, State of California; that its Sheriff's Department is a department of the
9 County of Santa Barbara; and that California public entity liability is based upon
10 the Government Claim Act commencing with [Section 814 of the California](#)
11 [Government Code](#). COUNTY denies responsibility for Plaintiff's injuries under
12 [42 U.S.C. § 1983](#). COUNTY denies that its official policies, practices, and/or
13 customs caused Plaintiffs' injuries. COUNTY denies that it is responsible for the
14 actions of its employees under a respondeat superior theory. Except as so
15 admitted and denied, COUNTY is without sufficient knowledge or information
16 to form a belief as to the truth of the allegations contained in said paragraph, and
17 on that basis denies each and every remaining allegation contained therein.

18 10. In response to the allegations of paragraph 10, COUNTY admits the
19 allegations therein.

20 11. In response to the allegations of paragraph 11, COUNTY is without
21 sufficient knowledge or information to form a belief as to the truth of the
22 allegations contained in said paragraph, and on that basis denies each and every
23 allegation contained therein.

24 12. In response to the allegations of paragraph 12, COUNTY is without
25 sufficient knowledge or information to form a belief as to the truth of the
26 allegations contained in said paragraph, and on that basis denies each and every
27 allegation contained therein.

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1 13. In response to the allegations of paragraph 13, COUNTY is without
2 sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and on that basis denies each and every
4 allegation contained therein.

5 14. In response to the allegations of paragraph 14, COUNTY is without
6 sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and on that basis denies each and every
8 allegation contained therein.

9 15. In response to the allegations of paragraph 15, COUNTY denies the
10 allegations as to named defendants CAPRI APARTMENTS AT ISLA VISTA
11 and ASSET CAMPUS HOUSING. Except as so denied, COUNTY is without
12 sufficient knowledge or information to form a belief as to the truth of the
13 allegations contained in said paragraph, and on that basis denies each and every
14 remaining allegations contained therein.

15 16. In response to the allegations of paragraph 16, COUNTY denies each
16 and every allegation therein.

17 17. In paragraph 17, Plaintiffs make a statement of intent and do not
18 assert any material allegations requiring an answer. To the extent this paragraph
19 requires an answer, COUNTY denies each and every allegation contained
20 therein.

21 18. In response to the allegations of paragraph 18, COUNTY admits the
22 allegations as to COUNTY. Except as so admitted, COUNTY is without is
23 without sufficient knowledge or information to form a belief as to the truth of
24 the allegations contained in said paragraph, and on that basis denies each and
25 every remaining allegation contained therein.

26 19. In response to the allegations of paragraph 19, COUNTY is without
27 sufficient knowledge or information to form a belief as to the truth of the

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1 allegations contained in said paragraph, and on that basis denies each and every
2 allegation contained therein.

3 20. In response to the allegations of paragraph 20, COUNTY is without
4 sufficient knowledge or information to form a belief as to the truth of the
5 allegations contained in said paragraph, and on that basis denies each and every
6 allegation contained therein.

7 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

8 21. In response to the allegations of paragraph 21, COUNTY is without
9 sufficient knowledge or information to form a belief as to the truth of the
10 allegations contained in said paragraph, and on that basis denies each and every
11 allegation contained therein.

12 22. In response to the allegations of paragraph 22, COUNTY is without
13 sufficient knowledge or information to form a belief as to the truth of the
14 allegations contained in said paragraph, and on that basis denies each and every
15 allegation contained therein.

16 23. In response to the allegations of paragraph 23, COUNTY is without
17 sufficient knowledge or information to form a belief as to the truth of the
18 allegations contained in said paragraph, and on that basis denies each and every
19 allegation contained therein.

20 24. In response to the allegations of paragraph 24, COUNTY is without
21 sufficient knowledge or information to form a belief as to the truth of the
22 allegations contained in said paragraph, and on that basis denies each and every
23 allegation contained therein.

24 25. In response to the allegations of paragraph 25, COUNTY is without
25 sufficient knowledge or information to form a belief as to the truth of the
26 allegations contained in said paragraph, and on that basis denies each and every
27 allegation contained therein.

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1 26. In response to the allegations of paragraph 26, COUNTY is without
2 sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and on that basis denies each and every
4 allegation contained therein.

5 27. In response to the allegations of paragraph 27, COUNTY is without
6 sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and on that basis denies each and every
8 allegation contained therein.

9 28. In response to the allegations of paragraph 28, COUNTY is without
10 sufficient knowledge or information to form a belief as to the truth of the
11 allegations contained in said paragraph, and on that basis denies each and every
12 allegation contained therein.

13 29. In response to the allegations of paragraph 29, COUNTY is without
14 sufficient knowledge or information to form a belief as to the truth of the
15 allegations contained in said paragraph, and on that basis denies each and every
16 allegation contained therein.

17 30. In response to the allegations of paragraph 30, COUNTY is without
18 sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and on that basis denies each and every
20 allegation contained therein.

21 31. In response to the allegations of paragraph 31, COUNTY admits that
22 during or about December of 2012, Rodger purchased a Glock 34 semiautomatic
23 pistol from Goleta Valley Gun & Supply, signing all paperwork in his own
24 name.

25 32. In response to the allegations of paragraph 32, COUNTY is without
26 sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained in said paragraph, and on that basis denies each and every
28 allegation contained therein.

1 33. In response to the allegations of paragraph 33, COUNTY admits the
2 allegations contained therein.

3 34. In response to the allegations of paragraph 34, COUNTY is without
4 sufficient knowledge or information to form a belief as to the truth of the
5 allegations contained in said paragraph, and on that basis denies each and every
6 allegation contained therein.

7 35. In response to the allegations of paragraph 35, COUNTY admits on
8 or about July 21, 2013 two SBCSD officers contacted Rodger at the hospital;
9 that Rodger told an officer that he had been pushed off a ledge; and that the
10 officers interviewed a person who said Rodger pushed two females. COUNTY
11 denies that SBCSD officers did no further follow up and the matter was
12 dropped. Except as so admitted and denied, COUNTY is without sufficient
13 knowledge or information to form a belief as to the truth of the allegations
14 contained in said paragraph, and on that basis denies each and every remaining
15 allegation contained therein.

16 36. In response to the allegations of paragraph 36, COUNTY is without
17 sufficient knowledge or information to form a belief as to the truth of the
18 allegations contained in said paragraph, and on that basis denies each and every
19 allegation contained therein.

20 37. In response to the allegations of paragraph 37, COUNTY admits the
21 following: on or about January 15, 2014, Rodger placed Cheng Yuan Hong
22 under citizen's arrest for petty theft; SBCSD officers arrived at Apt. #7 and
23 spoke with Hong; Hong alleged that Rodger took Hong's rice bowl and moved
24 Hong's property around the apartment; at that time SBCSD officers did not do a
25 background check on Rodger; at that time SBCSD officers did not do a gun
26 check on Rodger; at that time SBCSD officers did not look online to investigate
27 Rodger. COUNTY denies that SBCSD deputies proceeded to arrest Hong.
28 Except as so admitted and denied, COUNTY is without sufficient knowledge or

1 information to form a belief as to the truth of the allegations contained in said
 2 paragraph, and on that basis denies each and every remaining allegation
 3 contained therein.

4 38. In response to the allegations of paragraph 38, COUNTY is without
 5 sufficient knowledge or information to form a belief as to the truth of the
 6 allegations contained in said paragraph, and on that basis denies each and every
 7 allegation contained therein.

8 39. In response to the allegations of paragraph 39, COUNTY is without
 9 sufficient knowledge or information to form a belief as to the truth of the
 10 allegations contained in said paragraph, and on that basis denies each and every
 11 allegation contained therein.

12 40. In response to the allegations of paragraph 40, COUNTY admits that
 13 on or about April 30, 2014, SBCSD officers checked on Rodger; spoke to
 14 Rodger at his apartment; did not perform any gun check before or after speaking
 15 to Rodger; and did not search Rodger's room. COUNTY denies that SBCSD
 16 officers, on or about April 30, 2014, acted recklessly and with deliberate
 17 indifference. COUNTY denies that on or about April 30, 2014, SBCSD officers
 18 had actual or constructive particular knowledge that Elliot Rodger's YouTube
 19 videos had revealed that he was a specific and preventable threat to the other
 20 persons living in his apartment. COUNTY denies that on or about April 30,
 21 2014, SBCSD officers' conduct affirmed that Rodger was not dangerous,
 22 increasing the existing danger to Hong and Wang and their guests and creating
 23 and catalyzing a danger to Hong and Wang which did not exist before. Except
 24 as so admitted and denied, COUNTY is without sufficient knowledge or
 25 information to form a belief as to the truth of the allegations contained in said
 26 paragraph, and on that basis denies each and every remaining allegation
 27 contained therein.

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1 41. In response to the allegations of paragraph 41, COUNTY admits that
 2 on or about May 23, 2014, Rodger e-mailed his “manifesto” to his parents,
 3 family friends, and at least one therapist after killing Hong, Wang and Chen
 4 with knives in the apartment of Rodger, Hong and Wang and subsequently
 5 carried out a shooting rampage in Isla Vista that left three more people dead and
 6 fourteen wounded. Except as so admitted, COUNTY is without sufficient
 7 knowledge or information to form a belief as to the truth of the allegations
 8 contained in said paragraph, and on that basis denies each and every remaining
 9 allegation contained therein.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF DUE PROCESS UNDER THE FOURTEENTH**
 12 **AMENDMENT ([42 U.S.C. § 1983](#)) (AGAINST DEFENDANTS COUNTY;**
 13 **SBCSD; AND DOES 1-50, INCLUSIVE)**

14 42. In paragraph 42, Plaintiffs reallege and incorporate by reference the
 15 allegations contained in paragraphs 1 through 41 of the First Amended
 16 Complaint. Insofar as a response is required to paragraph 42, COUNTY
 17 incorporates by reference COUNTY’s individual responses to those allegations
 18 contained in this Answer.

19 43. In response to the allegations of paragraph 43, COUNTY denies each
 20 and every allegation contained therein.

21 44. In response to the allegations of paragraph 44, COUNTY denies each
 22 and every allegation contained therein.

23 45. In response to the allegations of paragraph 45, COUNTY denies each
 24 and every allegation contained therein.

25 46. In response to the allegations of paragraph 46, COUNTY denies each
 26 and every allegation contained therein.

27 47. In response to the allegations of paragraph 47, COUNTY denies each
 28 and every allegation contained therein.

1 48. In response to the allegations of paragraph 48, COUNTY denies each
2 and every allegation contained therein.

3 49. In response to the allegations of paragraph 49, COUNTY denies each
4 and every allegation contained therein.

5 **SECOND CAUSE OF ACTION**

6 **NEGLIGENCE (AGAINST DEFENDANTS CAPRI, ASSET** 7 **AND DOES 51-100, INCLUSIVE)**

8 50. Plaintiffs' Second Cause of Action for Negligence as set forth in
9 paragraphs 50 through 57 of the First Amended Complaint is not brought against
10 COUNTY; COUNTY therefore makes no response to the allegations contained
11 in paragraphs 50 through 57.

12 **COUNTY'S AFFIRMATIVE DEFENSES**

13 50. For a First Affirmative Defense, the First Amended Complaint for
14 Damages fails to state facts sufficient to constitute a cause of action against the
15 County Defendants.

16 51. For a Second Affirmative Defense, COUNTY asserts that it is not
17 liable pursuant to [*Monell v. Dep't of Social Services of the City of New York*](#),
18 [436 U.S. 658, 694, 98 S.Ct. 2018, 56 L.Ed.2d 611](#), because there can be no
19 recovery under [42 U.S.C. § 1983](#) against a local public entity when the action
20 alleged to be unconstitutional is not action implementing or executing a
21 COUNTY policy, custom, or practice.

22 52. For a Third Affirmative Defense, Plaintiffs' allegations do not
23 support the existence of a custom or policy, or failure to train, of the kind of
24 duration and consistency that is necessary under *Monell* and [*City of Canton v.*](#)
25 [*Harris*, 489 U.S. 378, 109 S.Ct. 1197, 103 L.Ed.2d 412 \(1989\); *City of*](#)
26 [*Oklahoma v. Tuttle*, 471 U.S. 808, 824, 105 S.Ct. 2427, 85 L.Ed.2d 791 \(1985\).](#)

27 53. For a Fourth Affirmative Defense, Plaintiffs' alleged damages were
28 caused by a third party, and not by COUNTY.

1 54. For a Fifth Affirmative Defense, COUNTY is not liable under the
 2 Due Process Clause of the Fourteenth Amendment of the U.S. Constitution for
 3 failure to protect an individual against private violence. DeShaney v. Winnebago
 4 County Dep't of Social Services, 489 U.S. 189, 197, 109 S.Ct. 998, 103 L.Ed.2d
 5 249 (1989); Patel v. Kent School District, 648 F.3d 965, 968 (9th Cir. 2011).

6 55. For a Sixth Affirmative Defense, COUNTY cannot be held liable
 7 under the state-created danger exception to the general rule of no governmental
 8 entity/agent liability for failure to protect against private violence because
 9 COUNTY did not expose the Plaintiffs or the Plaintiffs' decedents to a greater
 10 danger than they otherwise would have faced.

11 56. For a Seventh Affirmative Defense, COUNTY cannot be held
 12 liable under the state-created danger exception to the general rule of no
 13 governmental entity/agent liability for failure to protect against private violence
 14 because the danger posed by Rodger was not known or obvious to COUNTY.
 15 L.W. v. Grubbs, 92 F.3d 894, 900 (9th Cir. 1996).

16 57. For an Eighth Affirmative Defense, COUNTY cannot be held liable
 17 under the state-created danger exception to the general rule of no governmental
 18 entity/agent liability for failure to protect against private violence because
 19 COUNTY did not act with deliberate indifference. L.W. Grubbs, 92 F.3d 894,
 20 900 (9th Cir. 1996); Patel v. Kent School District, 648 F.3d 965, 974 (9th Cir.
 21 2011).

22 58. For a Ninth Affirmative Defense, Plaintiffs do not have a right
 23 protected by the Due Process Clause of the Fourteenth Amendment to the
 24 benefits they would have received if COUNTY had arrested or otherwise
 25 restrained or restricted Rodger's activities prior to May 23, 2014.

26 59. COUNTY is entitled to all other applicable immunities provided by
 27 federal law not specifically set forth herein and specifically reserves the right to

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1 add or to amend this Answer prior to the date of the Pre-Trial Conference in
2 order to conform the pleadings to established evidence.

3 WHEREFORE, COUNTY prays as follows:

- 4 1. That Plaintiffs take nothing as against COUNTY by way of their
5 First Amended Complaint;
6 2. For costs of suit;
7 3. For an award of reasonable attorneys' fees pursuant to [42 U.S.C. §](#)
8 [1988](#); and
9 4. For such other and further relief as the Court may deem
10 appropriate.

11 **DEMAND FOR JURY TRIAL**

12 COUNTY OF SANTA BARBARA and COUNTY OF SANTA
13 BARBARA SHERIFF'S DEPARTMENT demand a jury trial. [Fed. R. Civ. P.](#)
14 [38](#).

15 Dated: June 8, 2015

MICHAEL C. GHIZZONI
COUNTY COUNSEL

17
18 By: /S/ - Mary Pat Barry
Mary Pat Barry
19 Sr. Deputy County Counsel
Attorneys for Defendants
20 COUNTY OF SANTA BARBARA and
21 SANTA BARBARA COUNTY
SHERIFF'S DEPARTMENT
22
23
24
25
26

DECLARATION OF SERVICE

I am a citizen of the United States and a resident of Santa Barbara County. I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street, Suite 201, Santa Barbara, CA.

On June 8, 2015, I served a true copy of the within **DEFENDANTS COUNTY OF SANTA BARBARA AND SANTA BARBARA COUNTY SHERIFF'S DEPARTMENT'S ANSWER TO FIRST AMENDED COMPLAINT FOR DAMAGES; DEMAND FOR JURY TRIAL** on the interested parties in this action by:

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above mentioned documents would have been deposited with the United States Postal Service, after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ electronic transmission via CM/ECF to the persons indicated below:

SEE ATTACHED SERVICE LIST

☒ (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on June 8, 2015, at Santa Barbara, California.

/s/ - D'Ann Marvin
D'Ann Marvin

SERVICE LIST*Chen, et al. v. County of Santa Barbara, et al.*

United States District Court Central District of California

Case No: 2:15-cv-01509-JFW(JEMx)

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